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VIA ECF

Honorable Paul G. Gardephe
United States District Court, Southern
District of New York
500 Pearl Street
New York, New York 10007

Re: *Bilalov v. Gref*, et al., case no. 20 Civ. 9153 (PGG) (JW)

Dear Judge Gardephe:

This firm represents the defendants in the referenced matter. We write to object to the procedure plaintiff's counsel proposed in her letter to Your Honor dated November 23, 2022.

When Judge Torres of this Court granted defendants' motion to dismiss the Second Amended Complaint (Dkt 98), she permitted plaintiff to attempt to replead for the sole purpose of attempting to plead a claim for abuse of process under Florida law. (Dkt 98 at 24-25). Plaintiff filed a motion for leave to file a Third Amended Complaint on October 4, 2022, as the Court allowed (Dkt 103).

The parties agreed on a briefing schedule, which the Court (by Magistrate Judge Willis) endorsed (Dkt 109). That schedule called for defendants to file opposition papers by November 4 and for plaintiff to file a reply by November 18. On November 18 (last Friday) counsel contacted us to advise that she had a personal emergency and needed an extension to yesterday, November 22. We agreed, and Magistrate Judge Willis approved the request (Dkt 111). Yesterday came and went without a filing by plaintiff.

Though we agree with plaintiff that his appeal divests this Court of jurisdiction to make any orders about the substance of his request, we disagree about the appropriate way forward. Briefing is now closed. Plaintiff did not file a reply timely. It is inappropriate for him, after the deadline for his reply has passed, to request leave to reopen the briefing schedule at some time in the future.

In Defendants' view, plaintiff's motion for leave to file a Third Amended Complaint should simply be denied on jurisdictional grounds. Once the Second Circuit rules there will be ample opportunity to revisit whether there even remains anything to be briefed at all.

We thank the Court for its attention to this matter.

Very truly yours,

Stuart M. Riback

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